

STATES OF JERSEY

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DRAFT PROCEEDS OF CRIME (SUPERVISORY BODIES) (AMENDMENT OF LAW) (JERSEY) REGULATIONS 200

**Lodged au Greffe on 29th July 2008
by the Minister for Economic Development**

STATES GREFFE



Jersey

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REPORT

PROPOSALS TO AMEND DEFINITIONS AND SCHEDULE TO THE PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 200-

These draft Regulations amend 2 definitions in the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 200- (“**Supervisory Bodies Law**”) and the Schedule to that Law.

The Schedule to the Supervisory Bodies Law is amended to set out the circumstances in which a fund that is an unregulated fund, or is which is subject to the Control of Borrowing (Jersey) Order 1958, must register under the Law. There will not be a requirement for such a fund to register where, in the case of a trust, its trustee, and, in the case of a limited partnership, its general partner, is registered under the Financial Services (Jersey) Law 1998 to carry on fund services business.

Despite this, and in line with international standards set by the Financial Action Task Force, the definition of “regulated person” is amended so that it is clear that the Commission may supervise compliance by such funds with the Money Laundering (Jersey) Order 2008 under the Supervisory Bodies Law.

As a result of changes made to the regulatory framework for fund products by the Collective Investment Funds (Amendment No. 4) (Jersey) Law 2008– including introduction of a requirement for unclassified funds to hold certificates – it has been necessary to amend the definition of “regulated business” to include the business of an unclassified fund. Explicit reference has also been made in the definition to the business of a recognized fund. The effect of this is that the Commission may supervise compliance by such funds with the Money Laundering (Jersey) Order 2008 under the Supervisory Bodies Law.

The Island’s framework to counter money laundering and the financing of terrorism will be subject to review by the International Monetary Fund in October 2008.

Financial and manpower implications

These draft Regulations will have no implications for the financial or manpower resources of the States.

Explanatory Note

The object of these Regulations is to update 2 definitions in, and the Schedule to, the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 –

- (a) as a result of the recasting of the treatment of funds under the Collective Investment Funds (Jersey) Law 1988;
- (b) to ensure, for the purposes of the application of the Money Laundering (Jersey) Order 2008, the supervision of unregulated funds and of collective investment funds that are not the subject of public offers; and
- (c) to avoid the need for certain of those funds to register under the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.

These Regulations also make changes to that Law as a consequence of the making of the Proceeds of Crime (Amendment of Schedule 2) (Jersey) Regulations 200-.



Jersey

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Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Articles 1(2) and 11(4) of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008^[1], have made the following Regulations –

1 Article 1 amended

In Article 1(1) of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008^[2], for the definitions “regulated business” and “regulated person” there shall be substituted the following definitions –

“ ‘regulated business’ means –

- (a) the business of a recognized fund, or of an unclassified fund, within the meaning of the Collective Investment Funds (Jersey) Law 1988^[3], or
- (b) a Schedule 2 business for which a person must –
 - (i) be registered under the Banking Business (Jersey) Law 1991^[4],
 - (ii) hold a permit under the Collective Investment Funds (Jersey) Law 1988,
 - (iii) be registered under the Financial Services (Jersey) Law 1998^[5], or
 - (iv) be authorized by a permit under the Insurance Business (Jersey) Law 1996^[6],

‘regulated person’ means a person who carries on –

- (a) a regulated business;
- (b) a business that, by virtue of any of the following provisions, is not a regulated business –
 - (i) Article 4 of the Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007^[7],
 - (ii) Article 5 of the Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007,
 - (iii) paragraph 4 of the Schedule to the Financial Services (Trust Company Business (Exemptions No. 2)) (Jersey) Order 2000^[8],
- (c) the business of a scheme or arrangement that –
 - (i) would be a collective investment fund (within the meaning of the Collective Investment Funds (Jersey) Law 1988) except for the fact that the capital, the collective investment of which is the object or one of the

- objects of the scheme or arrangement, is not acquired by means of an offer to the public of units for subscription, sale or exchange, and
- (ii) is a trust of which the trustee, or a limited partnership of which the general partner, is registered under the Financial Services (Jersey) Law 1998 to carry on fund services business; or
- (d) the business of a scheme or arrangement that –
- (i) is an unregulated fund within the meaning of the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008^[9], and
 - (ii) is a trust of which the trustee, or a limited partnership of which the general partner, is registered under the Financial Services (Jersey) Law 1998 to carry on fund services business;”.

2 Amendment of Schedule

- (1) For item 3 of the Schedule to the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 there shall be substituted the following items –

“3	1	A business that – (a) is within paragraph 6 of Part B; and (b) is not the business of a scheme, or arrangement, that is a trust of which the trustee, or a limited partnership of which the general partner, is registered under the Financial Services (Jersey) Law 1998 to carry on fund services business
3A	1	A business that – (a) is within paragraph 3(1)(d) of Part A; and (b) is not the business of a scheme, or arrangement, that is a trust of which the trustee, or a limited partnership of which the general partner, is registered under the Financial Services (Jersey) Law 1998 to carry on fund services business”.

- (2) In item 4 of the Schedule to the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, for the words “clauses (i) to (iv)” there shall be substituted the words “clauses (i) to (v)”.

3 Citation and commencement

- (1) These Regulations may be cited as the Proceeds of Crime (Supervisory Bodies) (Amendment of Law) (Jersey) Regulations 200-.
- (2) These Regulations shall come into force on the same day as Article 11(4) of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.

[1]	<i>L.32/2008</i>
[2]	<i>L.32/2008</i>
[3]	<i>chapter 13.100</i>
[4]	<i>chapter 13.075</i>
[5]	<i>chapter 13.225</i>
[6]	<i>chapter 13.425</i>
[7]	<i>chapter 13.225.41</i>
[8]	<i>chapter 13.225.60</i>
[9]	<i>R&O.28/2008</i>